

1 Moira Heiges-Goepfert (Cal. Bar No. 326861)  
**OUTTEN & GOLDEN LLP**  
2 One California Street, 12th Floor  
3 San Francisco, CA 94111  
4 New York, NY 10017  
5 Telephone: (415) 223-7847  
Facsimile: (415) 638-8810  
mhg@outtengolden.com

Ossai Miazad (admitted pro hac vice)  
**OUTTEN & GOLDEN LLP**  
685 Third Avenue, 25th Floor  
New York, NY 10017  
Telephone: (212) 245-1000  
Facsimile: (646) 509-2060  
om@outtengolden.com

6 Sophia L. Hall (*pro hac vice*)  
**LAWYERS FOR CIVIL RIGHTS**  
7 61 Batterymarch Street, 5th Floor  
8 Boston, MA 02110  
Telephone: (617) 482-1145  
9 Facsimile: (617) 482-4392  
shall@lawyersforcivilrights.org

11 *Attorneys for Plaintiffs Ruben Juarez, Calin Constantin  
Segarceanu, Emiliano Galicia, Josue Jimenez, and The Proposed  
Class.*

13 **UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

16 RUBEN JUAREZ, CALIN CONSTANTIN  
17 SEGARCEANU, EMILIANO GALICIA, and  
18 JOSUE JIMENEZ, on behalf of themselves  
and all others similarly situated,

Case No. 4:20-cv-03386 (HSG)

19 Plaintiffs,

**NOTICE OF MOTION AND  
UNOPPOSED MOTION FOR  
PRELIMINARY SETTLEMENT  
APPROVAL**

20 v.

21 Date: June 2, 2022  
22 Time: 2:00 PM  
Courtroom: 2

SOCIAL FINANCE, INC. d/b/a SOFI, and  
SOFI LENDING CORP. d/b/a SOFI,

Honorable Haywood S. Gilliam, Jr.

23 Defendants.

## **NOTICE OF MOTION AND MOTION**

PLEASE TAKE NOTICE that on June 2, 2022, at 2:00 p.m., or as soon thereafter as the matter may be heard, in Courtroom 2 – 4th Floor of this Court’s Oakland Courthouse, located at 1301 Clay Street, Oakland, California, Plaintiff Ruben Juarez, individually (the “Individual Plaintiff”), and Plaintiffs Calin Constantin Segarceanu, Emiliano Galicia and Josue Jimenez, individually and as class representatives on behalf of the Class (together “the Class Representatives”), will, and hereby do, move this Court for the following relief with respect to the Settlement Agreement and Release (attached as Exhibit A to the Declaration of Ossai Miazad in Support of Motion for Preliminary Settlement Approval Order) with Defendants Social Finance, Inc. d/b/a SoFi and SoFi Lending Corp. d/b/a SoFi (together “SoFi”):

13 1. that the Court certify, for settlement purposes only, a settlement class pursuant to Federal  
14 Rule of Civil Procedure 23(a) and (b)(3);  
15 2. that the Court preliminarily approve the proposed Settlement as fair, reasonable and  
16 adequate under Rule 23 of the Federal Rules of Civil Procedure;  
17 3. that the Court appoint Plaintiffs Calin Constantin Segarceanu, Emiliano Galicia and Josue  
18 Jimenez as representatives of the Class;  
19 4. that the Court appoint Plaintiffs' attorneys as Class Counsel;  
5. that the Court approve mailing to the Class Members the proposed Class Notice and the  
establishment of a settlement website;  
6. that the Court appoint Rust Consulting as the Settlement Administrator; and  
7. that the Court schedule a hearing for final approval of the Settlement at least one hundred  
forty (140) days after entry of the Preliminary Approval Order.

This Motion is made on the grounds that the Settlement is the product of arms-length, good-faith negotiations; is fair, reasonable, and adequate to the Class; and should be preliminarily approved, as discussed in the attached memorandum.

The Motion is based on: this notice; the following memorandum in support of the motion; the Miazad Declaration (which annexes a copy of the Settlement); the Court's record of this action; all matters of which the Court may take notice; and oral and documentary evidence presented at the hearing on the motion. This motion is unopposed by SoFi.

1

2 Dated: April 20, 2022

Respectfully submitted,

3

4 By: /s/ Ossai Miazad  
5 Ossai Miazad (*admitted pro hac vice*)  
6 **OUTTEN & GOLDEN LLP**  
7 685 Third Avenue, 25th Floor  
New York, NY 10017  
Telephone: (212) 245-1000  
Facsimile: (646) 509-2060  
om@outtengolden.com

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PLAINTIFFS' UNOPPOSED MOTION FOR  
PRELIMINARY SETTLEMENT  
APPROVAL

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1     **I. INTRODUCTION**

2         Plaintiffs Juarez, Galicia and Jimenez immigrated to the United States as children, and  
 3         were granted temporary protection from deportation, work authorization and Social Security  
 4         numbers (“SSNs”) under the June 2012 program known as Deferred Action for Childhood  
 5         Arrivals (“DACA”). Plaintiff Segarceanu immigrated to the United States on a student visa and  
 6         was granted a temporary green card as a conditional permanent resident (“CPR”) following his  
 7         marriage to his wife, a U.S. citizen, in 2018. After obtaining DACA or CPR status, work  
 8         authorization, and SSNs, Plaintiffs applied (or attempted to apply) to SoFi for a variety of  
 9         student, personal and home loans or loan refinancing products. Plaintiffs allege that SoFi denied  
 10        their applications for credit because they were not U.S. citizens or lawful permanent residents  
 11        (“LPRs”).

12         In May 2020, Plaintiffs brought a class action lawsuit against SoFi, alleging lending  
 13        discrimination based on alienage and immigration status. The parties have now entered into a  
 14        proposed settlement of this litigation for significant monetary and programmatic relief.  
 15        Critically, in connection with the settlement, SoFi has agreed to change its lending policies to  
 16        make credit and loans available to DACA and CPR recipients on the same terms and conditions  
 17        as it offers credit to U.S. citizens, fully eliminating the harm challenged by the lawsuit for future  
 18        applicants, including Plaintiffs and class members who wish to reapply for SoFi loans.

19         The settlement also provides for monetary relief in the form of a settlement fund in the  
 20        amount of \$155,000 and an additional \$25,000 in administration costs, and up to \$300,000 in  
 21        attorneys’ fees and costs. Miazad Decl. Ex. A (“Settlement Agreement” or “SA”) §§ 3.3.2,  
 22        15.2.<sup>1</sup>

23         For the reasons set forth below, the proposed settlement and this Motion readily satisfy  
 24        the requirements of Rule 23, Ninth Circuit precedent, *see, e.g., Roes, 1-2 v. SFBSC Mgmt., LLC*,  
 25        944 F.3d 1035, 1060 (9th Cir. 2019), and established Northern District practice, including the

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26  
 27        <sup>1</sup> All exhibits are attached to the accompanying Declaration of Ossai Miazad in Support of  
 Motion for Preliminary Settlement Approval (“Miazad Decl.”).

1 Class Action Settlement Guidance. *Procedural Guidance for Class Action Settlements*, U.S.  
 2 Dist. Ct. for Northern District Cal., [https://cand.uscourts.gov/forms/procedural-guidance-for-](https://cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/)  
 3 [class-action-settlements/](https://cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/) (last updated Dec. 5, 2018). The parties have zealously litigated the  
 4 complex arbitration and liability issues presented by this case, briefing numerous motions to  
 5 compel, dismiss and strike, engaging in formal and informal fact discovery, and participating in  
 6 an all-day mediation session with experienced JAMS arbitrator David Geronemus, Esq., as well  
 7 as multiple phone conferences since mediation. Plaintiffs accordingly and respectfully submit  
 8 that the Court should preliminary approve this valuable settlement, and approve the issuance of  
 9 notice to Class Members to let them make claims, object, or opt out, as appropriate.

10 **II. FACTUAL AND PROCEDURAL BACKGROUND**

11 **A. SoFi's Lending Policies Made DACA Recipients and CPRs Ineligible, or  
 12 Subject to Heightened Requirements, for Credit.**

13 As a major online lender, SoFi originates student loans, personal loans, and home  
 14 mortgage and improvement loans, refinances student loans, and offers credit card consolidation  
 15 (collectively, "Loans"). Dkt. No. 62, Second Am. Compl. ("SAC") ¶ 2. SoFi's lending policies  
 16 and practices have required applicants who are not U.S. citizens to be either LPRs or holders of  
 17 certain U.S. visas to be eligible for Loans. *Id.* ¶ 3. Since 2012, and continuing through early-  
 18 December 2019, SoFi's lending policies made non-citizen applicants who resided in the United  
 19 States and held DACA status ineligible for Loans. *Id.* ¶ 4. In early-December 2019, after  
 20 discussions with undersigned counsel on behalf of Plaintiff Juarez, SoFi changed its policy to  
 21 make DACA recipients eligible for Loans, but only if they apply by telephone with a co-signer  
 22 who is a U.S. citizen or LPR—two requirements that are not imposed on citizen applicants. *Id.* ¶  
 23 5. At the same time, SoFi created a designated customer service number to field calls and  
 24 initiate applications from DACA recipients and other non-citizens seeking Loans. Miazad Decl.  
 25 ¶ 11. Throughout the relevant time period, SoFi had a policy and practice of asking conditional  
 26 permanent residents ("Conditional Permanent Residents" or "CPRs") for information as to  
 27 renewal of their status, which in certain circumstances they were unable to provide, and that  
 rendered them ineligible for loans. SAC ¶ 6.

1 Plaintiffs Juarez, Galicia, and Jimenez are DACA recipients living in the United States  
 2 with valid SSNs who were denied the opportunity to be considered for credit from SoFi, pursuant  
 3 to the lending policies described above, because they were not U.S. citizens or LPRs, or did not  
 4 have an eligible U.S. co-signer. *Id.* ¶¶ 65-86, 116-51. Plaintiff Segarceanu is a CPR who,  
 5 likewise, was denied the opportunity to be considered for credit from SoFi because he was not a  
 6 U.S. citizen or LPR. *Id.* ¶¶ 87-115.

7 **B. Procedural History**

8 On May 19, 2020, Plaintiff Juarez initiated this action by filing a putative class action  
 9 Complaint against SoFi, asserting violations of the Civil Rights Act of 1866, 42 U.S.C. § 1981  
 10 (“Section 1981”), and the California Unruh Civil Rights Act, Cal. Civil Code §§ 51, *et seq.*  
 11 (“Unruh Act”). Dkt. No. 1. After SoFi moved to dismiss, Plaintiffs Juarez and Segarceanu filed  
 12 a First Amended Complaint on July 30, 2020, adding named Plaintiff Segarceanu and claims  
 13 under the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* (“FCRA”). Dkt. No. 33.

14 On August 31, 2020, Defendants filed a Motion to Compel Arbitration, or in the  
 15 Alternative Dismiss, or in the Alternative Strike Portions of the Plaintiff’s First Amended  
 16 Complaint. Dkt. No. 38 (First Motion to Compel, Dismiss and Strike). With respect to the  
 17 Motion to Compel, SoFi argued that Plaintiff Juarez’s claims were subject to the arbitration  
 18 provision that SoFi requires applicants to sign as a condition of any online application. *See id.*  
 19 In his Opposition, Plaintiff Juarez argued that while SoFi’s arbitration agreement may have  
 20 applied to Juarez’s initial online application, it did not extend to his subsequent attempts to apply  
 21 for credit by calling SoFi’s customer service number. Dkt. No. 41 (Plaintiffs’ Opp. to First  
 22 Motion to Compel, Dismiss and Strike) at 8-9.

23 Following oral argument, on April 12, 2021, the Court issued an order (1) denying SoFi’s  
 24 Motion to Compel, granting in part and denying in part SoFi’s Motion to Dismiss, and denying  
 25 SoFi’s Motion to Strike and (2) providing Plaintiffs an opportunity to amend to address the  
 26 deficiencies identified as to Plaintiffs’ Unruh Act claim. Dkt. No. 56 (Order Denying First  
 27 Motion to Compel). With respect to SoFi’s Motion to Compel, the Court found that, while

1 otherwise valid, SoFi's online arbitration agreement applies on a "transaction-by-transaction  
 2 basis" and does not extend to independent applications for Loans made through SoFi's customer  
 3 service phone line. *Id.* at 7-9.

4 On May 3, 2021, Plaintiffs filed a Second Amended Complaint, adding named Plaintiffs  
 5 Jimenez and Galicia and incorporating additional allegations in support of Plaintiffs' Unruh Act  
 6 claims. Dkt. No. 62. On June 2, 2021, SoFi filed a Motion to Compel Arbitration of Claims of  
 7 Plaintiff Emiliano Galicia, Dkt. No. 68 ("Second Motion to Compel"), which Plaintiff Galicia  
 8 opposed, Dkt. No. 72, and which the Court later granted in part and denied in part on August 24,  
 9 2021, Dkt. No. 77. Consistent with its Order Denying the First Motion to Compel, the Court  
 10 found that while Plaintiff Galicia's initial online application was covered by the online  
 11 arbitration agreement, his subsequent attempts to apply over the phone were not. Dkt. No. 77  
 12 (Order Denying in Part Second Motion to Compel) at 5-7.

13 On July 15, 2021, the Parties participated in a private mediation session with experienced  
 14 JAMS arbitrator David Geronemus, during which they were initially unable to reach a  
 15 settlement. Following the July mediation, the parties continued to engage with the mediator, and  
 16 with each other, to explore avenues for a potential resolution, while simultaneously moving  
 17 forward with litigation. Miazad Decl. ¶ 18. In November 2021, the parties reached a tentative  
 18 agreement on the materials terms of a settlement, after which they stipulated to a stay of  
 19 litigation pending further negotiations. Dkt. No. 83, 85, 87, 89 (Stipulations). Since that time,  
 20 the Parties have been diligently negotiating the terms of the settlement agreement and  
 21 accompanying notice documents. *Id.*

22 **III. THE PROPOSED SETTLEMENT**

23 **A. The Settlement Classes**

24 For settlement purposes only and consistent with the parties' Settlement Agreement,  
 25 Plaintiffs seek certification of a National Class and a California Class. The two classes are  
 26 defined as follows:

1           **“National Class”** means those individuals who:

- 2           • (i) applied for or attempted to apply for any credit product from SoFi; (ii) between  
3           December 19, 2019 through the date of preliminary approval; (iii) who held valid and  
4           unexpired DACA or CPR status at the time they applied for or attempted to apply for  
5           credit; (iv) who called SoFi at the designated 877 number regarding the application as set  
6           forth in the class data produced by SoFi; (v) who were denied as set forth in the class data  
7           produced by SoFi; and (vi) who were not California residents as indicated in the “applied  
8           state” data field as set forth in the class data produced by SoFi; or
- 9           • (i) applied for or attempted to apply for any credit product from SoFi; (ii) between May  
10           19, 2017 through the date of preliminary approval; (iii) who held valid and unexpired  
11           DACA or CPR status at the time they applied for or attempted to apply for credit; (iv)  
12           who opted out of SoFi’s arbitration provision in writing; (v) who were denied as set forth  
13           in the class data produced by SoFi; and (vii) who were not California residents as set  
14           forth in the class data produced by SoFi. SA § 1.9.1.

10           **“California Class”** means those individuals who:

- 11           • (i) applied for or attempted to apply for a credit product from SoFi; (ii) between  
12           December 19, 2019 through the date of preliminary approval; (iii) who held valid and  
13           unexpired DACA or CPR status at the time they applied for or attempted to apply for  
14           credit; (iv) who called SoFi at the designated 877 number regarding the application as set  
15           forth in the class data produced by SoFi; (v) who were denied as set forth in the class data  
16           produced by SoFi; and (vi) who were California residents as indicated in the “applied  
17           state” data field as set forth in the class data produced by SoFi; or
- 18           • (i) applied for or attempted to apply for a credit product from SoFi; (ii) between May 19,  
19           2017 through the date of preliminary approval; (iii) who held valid and unexpired DACA  
20           or CPR status at the time they applied for or attempted to apply for credit; (iv) who opted  
21           out of SoFi’s arbitration provision in writing; (v) who were denied as set forth in the class  
22           data produced by SoFi; and (vii) who were California residents as set forth in the class  
23           data produced by SoFi. SA § 1.9.2.

24           These class definitions are intended to capture DACA or CPR applicants who were  
25           denied SoFi loans during the class period, and whose applications were not subject to SoFi’s  
26           online arbitration agreement. The definitions thus comport with the Court’s finding that SoFi’s  
27           arbitration provision is valid, but applies to applications submitted online in connection with an  
28           applicant’s online registration process. *See* Dkt. 56 (Order Denying First Motion to Compel) at  
7-9. Because individuals who attempted to apply by calling SoFi’s designated customer service  
line<sup>2</sup> engaged in a separate “transaction” not covered by the arbitration provision, they are  
properly included as members of the class. *Id.*

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27           <sup>2</sup> SoFi opened a designated (1-877) customer service line for DACA recipients and other  
28           non-citizen applicants on December 19, 2019. Miazad Decl. ¶ 11. Applicants who called this

1       The Parties estimate that there are approximately 2,300 total Class Members, including  
 2 approximately 300 California Class Members and approximately 2,000 National Class Members.  
 3 Miazad Decl. ¶ 34.

4       **B. Comparison of Settlement Classes with Those Proposed in the Complaint**

5       In the Second Amended Complaint, Plaintiffs proposed certification of three classes,  
 6 organized by the three types of claims asserted (Section 1981, Unruh and FCRA). Specifically,  
 7 Plaintiffs proposed:

- 8       1. A “Section 1981 Class” defined as “all non-United States citizens who resided in  
       9 the United States and had DACA or were Conditional Permanent Residents at the  
       10 time they applied and were denied or unsuccessfully sought to apply for any SoFi  
       11 Loan from May 19, 2017 through the date of final judgment in this action.” Dkt.  
       12 62 (SAC) ¶ 162.
- 13       2. An “Unruh Act Class” defined as “all non-United States citizens who resided in  
       14 the United States and had DACA or were Conditional Permanent Residents at the  
       15 time they applied and were denied or unsuccessfully sought to apply for any SoFi  
       16 Loan from May 19, 2018 through the date of final judgment in this action.” *Id.* ¶ 163.
- 17       3. A “FCRA Class” defined as all non-United States citizens who resided in the  
       18 United States and were Conditional Permanent Residents at the time they applied  
       19 and were denied or unsuccessfully sought to apply for any SoFi Loan, and whose  
       20 consumer reports were obtained by SoFi from July 30, 2018 through the date of  
       21 final judgment in this action. *Id.* ¶ 164.

22       In contrast, the proposed settlement collapses these three claims-based classes together,  
 23 using the earliest statute of limitations period (under Section 1981) as the beginning of the  
 24 liability period, and then divides class members based on whether they live in California (the  
 25 California Class) or any other state (the National Class). SA § 1.9. Substantively, the classes are  
 26 the same; they cover DACA recipients and CPRs who were denied the same types of SoFi loan  
 27 products during the same time period. Under the Settlement Agreement, members of the  
 28 California Class are entitled to a recovery of up to \$3,000 per claim, and members of the  
 National Class are entitled to up to \$1,000 per claim. *Id.* § 3.3.5. This distinction is fair and

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 31       phone number, as reflected in SoFi’s records, are included as class members. *Id.* ¶ 12. Prior to  
 32 this date, SoFi’s records do not identify individuals who sought Loans over the phone, and  
 33 therefore individuals who applied for Loans over the phone prior to December 19, 2019 are not  
 34 included in the class and will not release claims as part of this settlement. *Id.*

1 reasonable given that California Class Members would potentially be entitled to valuable  
 2 statutory damages (of up to \$4,000 per claim) under California’s Unruh Act, which are not  
 3 available to member of the National Class. Miazad Decl. ¶ 32; Cal. Civil Code § 52(a)  
 4 (providing statutory damages of \$4,000 per violation).

5 As discussed, *supra*, the settlement classes are also narrower than those proposed in  
 6 Plaintiff’s Second Amended Complaint in that they are designed to exclude applicants subject to  
 7 SoFi’s arbitration agreement. This limitation is reasonable as it comports with the Court’s  
 8 finding that SoFi’s online arbitration agreement is valid and binding, but does not extend to  
 9 individuals who sought to apply through separate “transactions” using SoFi’s customer service  
 10 line. *See* Dkt. 56 (Order Denying First Motion to Compel) at 7-9.

11 **C. Settlement Overview**

12 The Settlement Agreement provides two important forms of relief for the Class Members:  
 13 (1) programmatic relief whereby SoFi will change its lending policies such that DACA and CPR  
 14 applicants will be evaluated for consumer credit product eligibility on the same terms as U.S.  
 15 citizen applicants and (2) a Settlement Fund of \$155,000 to compensate Class Members who  
 16 choose to file claim forms.

17 **1. Programmatic Relief**

18 Arguably the most significant aspect of the settlement is that, subject to its lending  
 19 requirements, SoFi agrees to modify its lending criteria to make DACA recipients and CPRs  
 20 eligible for Loans on the same terms as U.S. citizens and LPRs (the “Programmatic Relief”).  
 21 SA § 3.2. By removing additional lending requirements and eligibility bars, this policy shift  
 22 eliminates the precise discriminatory harm that Plaintiffs sought to challenge by this suit, and  
 23 restores Plaintiffs and Class Members to equal footing with U.S. citizen and LPR applicants. As  
 24 a major lender, particularly with respect to student loans and loan refinancing, Plaintiffs hope  
 25 and expect that SoFi’s decision to open its suite of consumer lending products to DACA  
 26 recipients and CPRs will have a positive impact on the consumer lending industry at large.

27 **2. Monetary Relief**

1        In addition to Programmatic Relief, SoFi has agreed to create a \$155,000 Settlement  
 2 Fund that will cover: (a) payments of up to \$3,000 per Verified Claim for each California Class  
 3 Member, and up to \$1,000 per Verified Claim for each National Class Member; (b) Incentive  
 4 Awards of up to \$5,000 each for Plaintiffs Segarceanu, Galicia and Jimenez; and (c) an  
 5 Individual Payment of up to \$6,000 for Plaintiff Juarez.<sup>3</sup> SA §§ 3.3.5, 15.2. In addition to the  
 6 \$155,000 Settlement Fund, SoFi has further agreed to pay up to \$300,000 in Class Counsel's  
 7 attorneys' fees and expenses, and up to \$25,000 in settlement administration costs. SA §§ 3.3,  
 8 15.1.

9        The plan of allocation fairly and adequately compensates Class Members. California  
 10 Class Members are eligible to receive up to \$3,000 per claim in light of their potential  
 11 entitlement to statutory damages under the Unruh Act (of up to \$4,000 per violation). *Id* § 3.3.5.  
 12 National Class Members are eligible to receive up to \$1,000 per claim reflecting their potential  
 13 entitlement to compensatory or nominal damages available under Section 1981. *Id*. In the event  
 14 the total amount of Verified Claims exceeds the available Settlement Fund, then the payments  
 15 will convert to a pro rata share, with each California Class Member receiving three times the pro  
 16 rata share of each National Class Member for each Verified Claim. *Id*.

17        Within 30 days of preliminary approval, the Settlement Administrator will distribute  
 18 Notice to all Class Members by U.S. mail, email and text. SA §§ 2.5, 7.3; SA Ex. 1 (Notice), Ex.  
 19 7 (Email) and Ex. 3 (Text). Consistent with modern best practices, the Settlement Administrator  
 20 will maintain a dual-language (English-Spanish) website providing the Notice, Claim Form,  
 21 information about deadlines and other relevant dates, key pleadings and orders and Class  
 22 Counsel's contact information. *Id*. § 6.2. The Settlement Administrator will also create a dual-  
 23 language (English-Spanish) toll-free phone number to field questions from Class Members. *Id*.

24 \_\_\_\_\_  
 25 <sup>3</sup>        As discussed further in Section III(C)(3), the Settlement Agreement provides for an  
 26 individual payment in the amount of \$6,000 to Plaintiff Juarez, which is the same amount as the  
 27 National Class Representative, because he will not benefit from the class settlement as his claim  
 28 falls outside of the class definition due to the fact that he attempted to apply for loans over the  
 phone before SoFi created a designated customer service line for DACA recipient and other non-  
 permanent residents in December 2019. Miazad Decl. ¶¶ 11-12.

1 Reminder notices will be sent via email and text 30 days after the mailing of Notice to remind  
 2 Class Members of their opportunity to complete their Claim Forms. *Id.* § 7.6. Class Members  
 3 will have at least 60 days to submit a claim form, and at least 45 days to file an objection with  
 4 the Court or opt out by sending a written request to the Settlement Administrator. SA §§ 1.6,  
 5 1.30, 1.32, 11.1, 12.2.

6 To make a claim, Class Members will be required to complete, sign and submit a claim  
 7 verification form (“Claim Form”) to the Settlement Administrator. *Id.* § 5.4. The Claim Form  
 8 will require each claimant to affirm that they: (1) had valid and unexpired DACA or CPR status  
 9 at the time they applied for a credit product with SoFi; (2) were denied at least one of those  
 10 products during the class period; and (3) have and are prepared to provide Official  
 11 Documentation<sup>4</sup> to verify their DACA or CPR status. *Id.* § 5.2. Claim Forms may be submitted  
 12 online or by email or mail. *Id.*, Ex. 2 (Claim Form).

13 In exchange for the monetary consideration described above, each Class Member will  
 14 release SoFi of any and all claims relating to SoFi’s denial of their loan applications based on  
 15 alienage, lack of citizenship and/or immigration status, including, but not limited to, any claims  
 16 under Section 1981, the Unruh Act, other state civil rights statutes, the Equal Credit Opportunity  
 17 Act, and the FCRA (the “Released Claims”).<sup>5</sup> SA § 1.37. As a condition to receiving an  
 18 Individual Payment or Incentive Award, the Plaintiffs will also execute a general release of all  
 19 claims.

20 Based on the Parties’ experience in similar cases, Plaintiffs estimate a claims rate of  
 21 approximately 10%. *See, e.g., Perez v. Wells Fargo*, No. 17 Civ. 454 (N.D. Cal. 2017), Dkt. No.

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22<sup>4</sup> 23 Official Documentation may include, for example, a: (1) a copy of an I-797 Approval  
 24 Notice from an I-821D; (2) a copy of a Work Authorization Card containing the code “C-33”; or  
 25 (3) a green card with conditions, or other documentation agreed to in good faith by the Parties.  
*Id.* § 1.31.

26<sup>5</sup> 27 Although this release is broader than the claims pled in the complaint, it is limited to the  
 28 subject matter of the operative complaint, and Class Counsel are unaware of any additional  
 claims it would extinguish. Beyond the Unruh Act, no other state law civil rights statutes  
 provide comparable statutory penalties for claims related to the denial of Class Members’ loan  
 applications based on alienage, lack of citizenship and/or immigration status.

1 355 (8,555/368,760 or approximately 2% of potential class members filed claims); *Donnenfeld v.*  
 2 *Petro, Inc.*, No. 17 Civ. 2310 (E.D.N.Y. Mar. 5, 2020), ECF No. 80-1 (8,074/91,807 or 8.6% of  
 3 class members filed claims); *In re MyFord Touch Consumer Litig.*, No. 13 Civ. 3072 (N.D. Cal.  
 4 Nov. 7, 2019), ECF No. 542 (claims submitted on behalf of 4.5% of class); *see also* Miazad  
 5 Decl. ¶ 36. Plaintiffs estimate that the return rate for California Class Members will be on the  
 6 higher end of that range, considering the high amount of the settlement award per denial, and that  
 7 the return rate for National Class Members will fall on the lower end of the range. *Id.* Any  
 8 remainder from the Settlement Fund that is not claimed by Class Members will be given as a *cy  
 9 pres* donation to the University of California Immigrant Legal Services Center, SA § 3.3.6, an  
 10 organization that provides free legal services to immigrant students and their families, *id.*;  
 11 Miazad Decl. ¶¶ 61-64.

12 **3. Class Representative and Individual Plaintiff Incentive Awards**

13 The settlement provides that, subject to Court approval, and conditioned on each Plaintiff  
 14 granting SoFi a general release, SoFi will pay Plaintiffs Segarceanu, Galicia and Jimenez  
 15 Incentive Awards of \$5,000 each. SA § 15.2. These amounts will be separate and apart from the  
 16 recovery to which Plaintiffs Segarceanu, Galicia and Jimenez will be entitled under the  
 17 settlement as Class Members. *Id.* The settlement further provides that Sofi will pay Plaintiff  
 18 Juarez an Individual Payment in the amount of \$6,000 (the equivalent of a \$5,000 incentive  
 19 award plus \$1,000 recovery established for the National Class).

20 Individual Payment and Incentive Awards of \$5,000 are reasonable as they are intended  
 21 to compensate Plaintiffs for (a) the significant time and effort over the past two years they have  
 22 spent on behalf of the Class assisting Class Counsel with the prosecution of these claims, (b) the  
 23 resulting significant value they have conferred to Class Members, and (c) the significant  
 24 exposure and risk they incurred by exposing themselves as DACA recipients and CPRs and  
 25 taking a leadership role in a class action lawsuit that has garnered media coverage.<sup>6</sup> Plaintiff

26  
 27 <sup>6</sup> See, e.g., Nicholas Iovino, *Lending Startup Can't Dodge Suit Over Denying Loans to  
 28 Immigrants*, Courthouse News Service, Apr. 12, 2021,  
<https://www.courthousenews.com/lending-startup-cant-dodge-suit-over-denying-loans-to-immigrants/>

1 Juarez is further entitled to an additional \$1,000 payment because he will not receive any  
 2 monetary relief from the Settlement Fund. Miazad Decl. ¶ 55. Unlike the other three Plaintiffs,  
 3 Mr. Juarez sought to apply via telephone before SoFi created a designated “877” customer  
 4 service line for DACA and other non-citizen applicants in December 2019. *Id.* As a result, his  
 5 calls are not reflected in SoFi’s call-log data, and therefore he is not included in either class  
 6 definition. *Id.* Based on the Court’s finding that Mr. Juarez’s separate attempts to apply for a  
 7 SoFi loan via telephone, as alleged, would not have been covered by SoFi’s arbitration  
 8 agreement, Mr. Juarez should be entitled to the \$1,000 payment that he otherwise would have  
 9 been eligible to receive as a member of the National Class had SoFi kept records of customer  
 10 service calls from DACA recipients prior to December 2019. *Id.*

11 The requested Individual Payment and Incentive Awards fall well within the range of  
 12 reasonableness for service awards in this Circuit, and do not undermine the adequacy of the  
 13 Plaintiffs as Class Representatives. As this Court has noted, many judges in the Ninth Circuit  
 14 “have held that a \$5,000 incentive award is ‘presumptively reasonable.’” *Bower v. Cycle Gear,*  
 15 *Inc.*, No. 14-cv-02712-HSG, 2016 U.S. Dist. LEXIS 112455, at \*20 (N.D. Cal. Aug. 23, 2016)  
 16 (citing *In re Toys-R-Us Delaware, Inc. FACTA Litig.*, 295 F.R.D. 438, 470-72 (C.D. Cal. 2014)).

17 **4. Attorneys’ Fees and Costs**

18 As provided for in the Settlement Agreement, Class Counsel will request Court approval  
 19 for an award of up to \$300,000 for attorneys’ fees and expenses. SA § 15.1. This award will not  
 20 be deducted from the Settlement Fund, but rather will be paid separately by SoFi. *Id.*

21 In non-common fund cases brought under fee shifting statutes such as Section 1981 and  
 22 the Unruh Act, the lodestar method for awarding attorneys’ fees is appropriate. *In re Bluetooth*  
 23 *Headset Prods. Liab. Litig.*, 654 F.3d 935, 941-42 (9th Cir. 2011). The lodestar figure is

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24 *immigrants/; Judge Refuses To Dismiss Lawsuit Accusing SoFi Of Denying Loans To*  
 25 *Immigrants*, CBS Local, Apr. 14, 2021, [https://sanfrancisco.cbslocal.com/2021/04/14/judge-](https://sanfrancisco.cbslocal.com/2021/04/14/judge-refuses-to-dismiss-lawsuit-accusing-sofi-of-denying-loans-to-immigrants/)  
 26 *refuses-to-dismiss-lawsuit-accusing-sofi-of-denying-loans-to-immigrants/; Class action lawsuit*  
 27 *moves forward against SoFi for denying services to migrants*, Peninsula 360 Press, Apr. 14,  
 28 2021, [https://peninsula360press.com/en\\_us/avanza-demanda-colectiva-contra-sofi-for-denying-migrant-services/.](https://peninsula360press.com/en_us/avanza-demanda-colectiva-contra-sofi-for-denying-migrant-services/)

1 “presumptively reasonable.” *Cunningham v. Cty. of Los Angeles*, 879 F.2d 481, 488 (9th Cir.  
 2 1988). Additionally, the fact that the award of attorneys’ fees and costs was negotiated  
 3 separately and will not be paid out of the relief available to the class supports a finding that the  
 4 requested fee award is reasonable. *Fulford v. Logitech, Inc.*, No. 08 Civ. 204, 2010 U.S. Dist.  
 5 LEXIS 144437, at \*5 (N.D. Cal. Mar. 5, 2010).

6 Class Counsel’s lodestar in this zealously litigated action is already over \$638,000,  
 7 reflecting approximately 1,125 attorney hours, in addition to litigation costs of approximately  
 8 \$18,000. Miazad Decl. ¶ 56; Hall Decl. ¶ 10. These fees and costs do not account for future  
 9 work to be performed to (1) secure preliminary approval, (2) oversee implementation of notice  
 10 and respond to Class Member inquiries during the notice period, (3) assist the Settlement  
 11 Administrator in evaluation of the Claim Forms, and (4) brief and argue final approval. Miazad  
 12 Decl. ¶ 60. Thus, Plaintiffs’ requested \$300,000 award reflects less than half of their fees  
 13 accrued to date, resulting in a “negative” lodestar multiplier of 0.47x, which will further decrease  
 14 during the coming months while Class Counsel continues to work for the Class Members’  
 15 benefit. *Id.* ¶¶ 56-60. *See Johnson v. Triple Leaf Tea Inc.*, No. 14 Civ. 1570, 2015 U.S. Dist.  
 16 LEXIS 170800, at \*24 (N.D. Cal. Nov. 16, 2015) (accounting for “future attorney time” in  
 17 decision whether attorneys’ fees were reasonable). Class Counsel have performed substantial  
 18 work to earn the requested award over the past two years of litigation including by: defeating, in  
 19 substantial part, two motions to compel and one motion to dismiss and motion to strike;  
 20 amending the complaint twice to include additional Plaintiffs and claims; undertaking significant  
 21 discovery, and engaging in various disputes with SoFi regarding the same; preparing for and  
 22 attending a mediation session; and thereafter engaging in months of negotiations before reaching  
 23 this settlement. Miazad Decl. ¶ 59. Because the requested award reflects a negative lodestar for  
 24 Class Counsel’s diligent and effective representation, with no additional payment for costs and  
 25 no adjustment for future hours, and because it will not be paid out of the Settlement Fund, it is  
 26 presumptively reasonable.

27 **5. Settlement Administration**

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PLAINTIFFS’ UNOPPOSED MOTION FOR  
 PRELIMINARY SETTLEMENT  
 APPROVAL

1       The Settlement Agreement provides that SoFi will pay the cost of a Settlement  
 2 Administrator, up to \$25,000. The parties have selected Rust Consulting (“Rust”)  
 3 as Settlement Administrator. The parties selected Rust by gathering bids from three settlement  
 4 administrators from a list of four potential settlement administrators. Miazad Decl. ¶ 46.  
 5 Because the method of notice and claims payment processes are delineated in the Settlement  
 6 Agreement, no new methods were proposed by the proposed settlement administrators, and  
 7 instead the parties evaluated whether the proposed settlement administrators were equipped to  
 8 handle the notice and claims process as negotiated by the parties. *Id.* ¶ 47. Class Counsel has  
 9 retained Rust to administer the claims process in 10 cases over the past three years, including  
 10 cases with complex claims processes like this one. *See, e.g., Tupitza v. Texas Roadhouse*, No.  
 11 1:20-cv-00002 (W.D. Pa.); *Marks v. Everlaw*, No. RG20064474 (Cal. Super. Ct., Alameda  
 12 Cnty.); *Mason v. Lumber Liquidators, Inc.*, No. 1:17-cv-04780 (E.D.N.Y.); Miazad Decl. ¶ 48.

13       Rust has agreed to perform all administration work set forth in the Settlement Agreement  
 14 for a will-not-exceed cost of \$25,000, which Rust anticipates being sufficient to cover the total  
 15 costs of settlement administration. SA § 3.3.1; Miazad Decl. ¶ 49. This includes costs of  
 16 administering notice as required under the Class Action Fairness Act, 28 U.S.C. §1715. SA §  
 17 2.3; Miazad Decl. ¶ 49. The Settlement Administrator’s maximum fee amounts to approximately  
 18 16% of the \$155,000 maximum Settlement Fund, which is reasonable in light of the amount and  
 19 complexity of the work to be performed (especially processing and verifying the Claim Forms,  
 20 which will require careful manual review and potential requests for supplemental Official  
 21 Documentation), and the need for English-Spanish translation services. SA § 6.2; Miazad Decl.  
 22 ¶ 50. This maximum fee is also in line with settlement administration fees in comparable cases.  
 23 *See, e.g., Contreras v. Worldwide Flight Servs.*, No. 18-cv-6036 PSG (SSx), 2020 U.S. Dist.  
 24 LEXIS 79037, at \*5, \*28 (C.D. Cal. Apr. 1, 2020) (approving \$25,000 settlement administration  
 25 fees where notice issued to class of 1,724 class members); *Bond v. Ferguson Enters.*, No. 09-cv-  
 26 1662 (OWW) (MJS), 2011 U.S. Dist. LEXIS 70390, at \*21 (E.D. Cal. June 30, 2011) (\$18,000  
 27 settlement administration fee awarded in case involving approximately 550 class members).

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PLAINTIFFS’ UNOPPOSED MOTION FOR  
 PRELIMINARY SETTLEMENT  
 APPROVAL

1                   **6. Cy Pres**

2                   Plaintiffs have negotiated a settlement that requires SoFi to pay at least \$155,000. In the  
 3 event that the combined Individual Payment, Incentive Awards and payments to claiming Class  
 4 Members are less than this floor, any remaining funds shall be given as a *cy pres* donation to the  
 5 University of California Immigrant Legal Services Center in accord with best practices. SA §  
 6 3.3.6; *see also Six (6) Mexican Workers v. Ariz. Citrus Growers*, 904 F.2d 1301, 1307 (9th Cir.  
 7 1990) (holding that *cy pres* distribution is appropriate “for the limited purpose of distributing the  
 8 unclaimed funds”); *Romero v. Perryman (In re Easysaver Rewards Litig.)*, 906 F.3d 747, 761  
 9 (9th Cir. 2018) (same).

10                  Operating out of the UC Davis School of Law, the University of California Immigrant  
 11 Legal Services Center provides direct legal services to immigrant students and their families,  
 12 including DACA recipients and CPRs, to address a variety of legal needs. Miazad Decl. ¶¶ 61-  
 13 63. This organization’s mission aligns with Class Members’ interests in seeking equitable access  
 14 to consumer loan products for DACA recipients and other immigrant applicants, including with  
 15 respect to student loans and loan refinancing. *Id.*; *see also In re Easysaver*, 906 F.3d at 761-62  
 16 (*cy pres* recipients should be selected in light of the objectives of the underlying statute and the  
 17 interests of the class). Neither the Parties nor their counsel have any relationship with the  
 18 University of California Immigrant Legal Services Center. Miazad Decl. ¶ 64.

19                  **IV. ARGUMENT**

20                  Settlement approval “involves a two-step process in which the Court first determines  
 21 whether a proposed class action settlement deserves preliminary approval and then, after notice  
 22 is given to class members, whether final approval is warranted.” *Nat'l Rural Telecomm. Coop. v.*  
 23 *DirectTV, Inc.*, 221 F.R.D. 523, 525 (C.D. Cal. 2004); *see also* Manual for Complex Litigation  
 24 §§ 21.632-634 (4th ed. 2004). Preliminary approval requires two elements: First, the court must  
 25 determine that the settlement class meets the requirements for class certification if it has not yet  
 26 been certified, Fed. R. Civ. P. 23(a), (b), and second, the court must determine that the settlement

1 is fair, reasonable, and adequate, Fed. R. Civ. P. 23(e)(2). *Hanlon v. Chrysler Corp.*, 150 F.3d  
 2 1011, 1025-26 (9th Cir. 1998).

3       **A.     Certification of the Rule 23 Classes Is Proper.**

4       For settlement purposes, the parties agree to certification of the California Class and the  
 5 National Class. “The validity of use of a temporary settlement class is not usually questioned.”  
 6 Alba Conte & Herbert B. Newberg, 4 Newberg on Class Actions § 11:22 (4th ed. 2002). The  
 7 relevant factors also weigh in favor of certification.

8       **1.     Rule 23(a) Is Satisfied.**

9       First, numerosity is met because joinder of Class Members would be impractical. Fed. R.  
 10 Civ. P. 23(a)(1). Records from SoFi’s customer service line designated for DACA recipients and  
 11 other non-citizen applicants suggests that there are at least 2,300 non-citizen applicants who  
 12 applied for consumer loans over the phone during the relevant period. Miazad Decl. ¶ 34. While  
 13 difficult to assess, the Parties estimate that at least 30% of these individuals (or at least 690  
 14 applicants) held DACA or CPR status, and would potentially be eligible to participate in the  
 15 Settlement as Class Members.<sup>7</sup> *Id.* ¶ 35. Further, potential Class Members are “geographically  
 16 dispersed” nationwide, including within California, which supports a finding of numerosity. *Id.*  
 17 ¶ 34. *See Civil Rights Educ. & Enf’t Ctr. v. RLJ Lodging Tr.*, No. 15 Civ. 224, 2016 U.S. Dist.  
 18 LEXIS 10277, at \*16 (N.D. Cal. Jan. 25, 2016) (noting that “joinder may be impracticable where  
 19 a class is geographically dispersed”).

20       Second, commonality is met because “there are questions of law or fact common to the  
 21 class.” Fed. R. Civ. P. 23(a)(2). The Supreme Court has stated that the focus is on whether there  
 22 are common issues of fact among class members and whether class treatment will “generate  
 23 common *answers* apt to drive the resolution of the litigation.” *Abdullah v. U.S. Sec’y Assocs.*,  
 24 731 F.3d 952, 957 (9th Cir. 2013) (citing *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350

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25  
 26       <sup>7</sup> Apart from DACA recipients and CPRs, applicants on SoFi’s call records may have held  
 27 other non-covered immigrations statuses, such as various types of visas, or undocumented  
 individuals.

1 (2011)). Here, common questions include whether SoFi’s lending policies deny Plaintiffs  
 2 and Class Members the opportunity to be considered for credit because of their alienage or  
 3 immigration status and whether SoFi’s lending policies violate Section 1981 or the Unruh Act.  
 4 Further, Plaintiffs assert liability based on uniform lending policies.<sup>8</sup>

5 Third, typicality is satisfied. Rule 23 typicality requires a finding that the “claims or  
 6 defenses of the representative parties [be] typical of the claims or defenses of the class.” Fed. R.  
 7 Civ. P. 23(a)(3). Under the rule’s “permissive” standard, “representative claims are ‘typical’ if  
 8 they are reasonably co-extensive with those of absent class members; they need not be  
 9 substantially identical.” *Johnson*, 2015 U.S. Dist. LEXIS 170800, at \*7 (quoting *Hanlon*, 150  
 10 F.3d at 1020). Here, the Class Representatives are typical of the classes they propose to  
 11 represent because (1) each lived in California or the United States, (2) each was a DACA  
 12 recipient or CPR when they applied for a Loan from SoFi; (3) each either applied by calling  
 13 SoFi’s designated customer service line, or opted out of arbitration in writing, and therefore has  
 14 at least one application not covered by SoFi’s online arbitration agreement and (4) each alleged  
 15 that he was denied credit because he was not a U.S. citizen or LPR pursuant to SoFi’s policies.

16 Fourth, Plaintiffs have fairly and adequately protected the interests of the class. Fed. R.  
 17 Civ. P. 23(a)(4). The adequacy requirement is met where the class representatives: (1) have  
 18 common, and not antagonistic, interests with unnamed class members, and (2) will vigorously  
 19 prosecute the interests of the class through qualified counsel. *Hanlon*, 150 F.3d at 1020; *see also*  
 20 *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997).

21 Here, adequacy is met because Class Representatives have the same interests as other  
 22 Class Members and have shown that they can fairly and adequately protect Class Members’  
 23 interests. Like all Class Members, Class Representatives were denied credit by SoFi based on  
 24 their immigration status pursuant to SoFi’s lending policies. Miazad Decl. ¶ 51. Class

25  
 26 <sup>8</sup> *See, e.g., Stevens v. Harper*, 213 F.R.D. 358, 377 (E.D. Cal. 2002) (in civil rights context,  
 27 “commonality is satisfied where the lawsuit challenges a system-wide practice or policy that  
 affects all of the putative class members”).

1 Representatives have no conflicts of interest with the Class Members and, Class Members stand  
 2 to benefit substantially from Class Representatives' pursuit of damages on their behalf. *Id.* ¶ 52.  
 3 Class Representatives (along with Plaintiff Juarez) have vigorously represented the interests of  
 4 their fellow Class Members and devoted substantial time to the prosecution of this action,  
 5 including by responding to extensive discovery, being prepared to sit for deposition, and having  
 6 numerous phone calls and meetings with counsel. *Id.* ¶¶ 53-54.

7 In addition, Plaintiffs are represented by adequate counsel. Outten & Golden LLP and  
 8 Lawyers for Civil Rights ("LCR"), have extensive experience litigating complex civil rights and  
 9 employment class actions and have vigorously prosecuted this action on behalf of Plaintiffs  
 10 through extensive motion practice and fact discovery. Miazad Decl. ¶¶ 4-9 (collecting cases);  
 11 Declaration of Sophia Hall ("Hall Decl.") ¶¶ 6-7 (same); *see also, e.g., Walsh v. CorePower*  
 12 *Yoga LLC*, No. 16-cv-05610, 2017 U.S. Dist. LEXIS 20974, at \*24 (N.D. Cal. Feb 14, 2017)  
 13 ("[Outten & Golden] ha[s] a proven track record in the prosecution of class actions as they have  
 14 successfully litigated and tried many major class action cases."). For these reasons, Class  
 15 Counsel satisfy the adequacy requirement of Rule 23(a).

16 **2. Certification Is Proper Under Rule 23(b)(3).**

17 Rule 23(b)(3) requires that common questions predominate over individual ones, and that  
 18 a class action is superior to other available methods for adjudicating the controversy. Fed. R.  
 19 Civ. P. 23(b)(3). Both requirements are met here.

20 The proposed classes, the California Class and the National Class, are sufficiently  
 21 cohesive to satisfy predominance. *Amchem*, 521 U.S. at 623. Predominance does not require  
 22 "that each element of [a plaintiff's] claim [is] susceptible to classwide proof." *Amgen Inc. v.*  
 23 *Conn. Ret. Plans & Tr. Funds*, 568 U.S. 455, 469 (2013) (internal quotation marks and citation  
 24 omitted). Rather, "[t]he predominance inquiry 'asks whether the common, aggregation-enabling,  
 25 issues in the case are more prevalent or important than the non-common, aggregation-defeating,  
 26 individual issues.'" *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453 (2016) (quotations  
 27 omitted). Here, Plaintiffs challenge lending policies and eligibility criteria that apply to all Class  
 28

1 Members. Common questions as to their nature and legality can be adjudicated collectively and  
 2 will drive the resolution of plaintiffs' claims.<sup>9</sup>

3 Superiority rests on factors like individual class members' desire to bring individual  
 4 actions and the utility of concentrating the litigation in one forum. Fed. R. Civ. P. 23(b)(3).  
 5 Here, "there is no indication[] that class members seek to individually control their cases, that  
 6 individual litigation is already pending in other forums, or that this particular forum is  
 7 undesirable for any reason." *Tierno v. Rite Aid Corp.*, No. 05 Civ. 02520, 2006 U.S. Dist.  
 8 LEXIS 71794, at \*33 (N.D. Cal. Aug. 31, 2006); *see also Amchem*, 521 U.S. at 615. Individual  
 9 lawsuits from hundreds of plaintiffs, for modest damages, would be wasteful and inefficient for  
 10 the court system. *See, e.g., Whiteway v. FedEx Kinko's Office & Print Servs., Inc.*, No. 05 Civ.  
 11 2320, 2006 U.S. Dist. LEXIS 69193, at \*30 (N.D. Cal. Sept. 14, 2006). Because the class  
 12 mechanism will achieve economies of scale for Class Members, conserve judicial resources, and  
 13 preserve public confidence in the system by avoiding repetitive proceedings and preventing  
 14 inconsistent adjudications, superiority is met.

15 **3. Plaintiffs' Counsel Should Be Appointed as Class Counsel.**

16 Adequacy of class counsel depends on (1) work performed on the matter, (2) experience,  
 17 (3) knowledge of the law, and (4) resources counsel can commit. Fed. R. Civ. P. 23(g)(1)(A).  
 18 Class Counsel readily satisfy these criteria, as set forth above. *See supra* Section IV(A)(1); *see*  
 19 *also* Miazad Decl. ¶¶ 4-9; Hall Decl. ¶¶ 6-7.

20 **B. The Settlement Is Fair, Reasonable, And Adequate.**

21 Once the Court has found class certification proper, the next step of the preliminary  
 22 approval process is to assess whether the settlement is "fundamentally fair, adequate, and  
 23 reasonable." *Hanlon*, 150 F.3d at 1026. Typically, the first-stage analysis looks for "obvious  
 24 deficiencies," with preliminary approval being granted if the settlement is non-collusive and  
 25

26 \_\_\_\_\_  
 27 <sup>9</sup> *See, e.g., Ellis v. Costco Wholesale Corp.*, 285 F.R.D. 492, 509, 538 (N.D. Cal. 2012)  
 28 (predominance satisfied as to discrimination claims where plaintiffs challenged "specific  
 employment practices" that applied "companywide").

1 within the range of possible final approval. *Walsh*, 2017 U.S. Dist. LEXIS 20974, at \*19  
 2 (quoting *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007)).<sup>10</sup>

3 When considering whether to grant approval, courts often “put a good deal of stock in the  
 4 product of an arms-length, non-collusive, negotiated resolution.” *Rodriguez v. W. Publ’g Corp.*,  
 5 563 F.3d 948, 965 (9th Cir. 2009). Courts may also assess the following factors, which are  
 6 assessed in greater detail at final approval. These factors are: (1) “the strength of the plaintiffs’  
 7 case,” “the risk, expense, complexity, and likely duration of further litigation,” and “the risk of  
 8 maintaining class action status throughout the trial,” (2) “the amount offered in settlement,” (3)  
 9 “the extent of discovery completed and the stage of the proceedings,” and (4) “the experience  
 10 and views of counsel.” *Hanlon*, 150 F.3d at 1026. In addition, courts review “the presence of a  
 11 governmental participant” and “the reaction of the class members to the proposed settlement.”  
 12 *Id.* These last two considerations are not significant here, as the former is not relevant, and the  
 13 latter cannot be gauged at this stage.

14 **1. Plaintiffs’ Case Faced Significant Hurdles on Liability and Class  
 15 Certification.**

16 “Approval of a class settlement is appropriate when ‘there are significant barriers  
 17 plaintiffs must overcome in making their case.’” *Betancourt v. Advantage Human Resourcing,*  
 18 *Inc.*, No. 14 Civ. 01788, 2016 U.S. Dist. LEXIS 10361, at \*11 (N.D. Cal. Jan. 28, 2016) (quoting  
 19 *Chun-Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 851) (N.D. Cal. 2010). Plaintiffs face  
 20 substantial obstacles to full recovery. First, liability is far from guaranteed. This litigation—a  
 21 lending discrimination class action on behalf of DACA recipients and CPRs—presents a  
 22 relatively novel theory with numerous unsettled issues. For example, SoFi has vigorously  
 23 contended that its policies are lawful and justified based on heightened risks inherent in lending  
 24 to individuals with non-permanent immigration status. SoFi has also argued that the Equal

25  
 26 <sup>10</sup> See also *Cancilla v. Ecolab, Inc.*, No. 12 Civ. 3001, 2015 U.S. Dist. LEXIS 106249, at \*9  
 27 (N.D. Cal. Aug. 12, 2015) (focusing preliminary approval analysis on “noncollusive  
 28 negotiations,” the lack of “obvious deficiencies” or “preferential treatment,” and being “with[in]  
 the range of possible approval”); Alba Conte & Herbert B. Newberg, 4 *Newberg on Class  
 Actions*, § 13.15 (5th ed.).

1 Credit Opportunity Act provides that permanence of residency and immigration status are  
 2 legitimate considerations in assessing credit and repayment risk. SoFi may also highlight events  
 3 in Plaintiffs' credit history to show that they were not qualified for the credit products they  
 4 sought, regardless of their immigration status. Plaintiffs also face obstacles to obtaining class  
 5 certification. For example, Plaintiffs would face challenges to certifying a FCRA class, as those  
 6 claims are predicated on SoFi's knowledge of applicants' CPR status based on the electronic  
 7 submission of conditional green cards during the online application process. Because online  
 8 applicants were required to agree to SoFi's arbitration agreement, and because very few online  
 9 applicants opted out of arbitration in writing, there will likely be few, if any, members of the  
 10 class apart from Plaintiff Segarceanu. SoFi may also argue that Class Members' claims cannot  
 11 be tried collectively due to individualized differences in their applications and credit histories,  
 12 thereby preventing a finding of predominance.  
 13

14 **2. The Settlement Amount Is Appropriate.**

15 “[P]erhaps the most important factor” courts consider in determining whether to grant  
 16 preliminary approval is “plaintiffs’ expected recovery balanced against the value of the  
 17 settlement offer.” *Cotter v. Lyft, Inc.*, 176 F. Supp. 3d 930, 935 (N.D. Cal. 2016) (internal  
 18 quotation marks omitted). Here, the monetary and programmatic relief provide excellent value  
 19 for Class Members. Though the precise amount of the monetary awards per Class Member is not  
 20 yet known, under any scenario the monetary relief under the settlement is likely to be a high  
 21 percentage of their maximum damages. Similarly, the settlement provides the greatest degree of  
 22 programmatic relief possible.  
 23

24 California Class Members are eligible for individual payments of up to \$3,000 per denial  
 25 of a credit application, which amounts to 75% of the \$4,000 statutory damages available under  
 26 the Unruh Act for each discriminatory act. Cal. Civil Code § 52(a). This is an excellent result  
 27  
 28

1 for California Class Members.<sup>11</sup> In light of the risks of an adverse judgment on the merits or  
 2 class certification, even payments lower than this amount would provide an excellent value to  
 3 California Class Members.  
 4

5 National Class Members are eligible for individual awards of up to \$1,000 per denial of a  
 6 credit application, which constitutes an excellent recovery considering the challenges inherent in  
 7 establishing Section 1981 liability class-wide, and in certifying a FCRA class (as described  
 8 above in Section IV(B)(1). In particular, Class Members will face significant challenges in  
 9 establishing compensatory damages resulting from SoFi's denial of their Loan applications.  
 10 Given the risks on class certification and the merits, even lower payments would constitute an  
 11 excellent recovery for National Class Members.  
 12

13 Plaintiffs also obtained the *maximum* degree of programmatic relief that Class Members  
 14 could possibly obtain. SoFi has agreed to extend Loans to current and valid DACA recipients  
 15 and CPRs on the same terms and conditions as U.S. citizens. All DACA recipients and CPRs  
 16 nationwide—not just Class Members—will benefit from this Programmatic Relief, enabling  
 17 hundreds of thousands of individuals to obtain credit under SoFi's comparatively advantageous  
 18 rates. Thus, the Programmatic Relief achieved here provides a significant benefit to Class  
 19 Members (and DACA recipients and CPRs nationwide) and is as good or better than what could  
 20 have been obtained by protracted litigation and trial.

21 **3. The Extent of Discovery Supports Settlement.**

22 \_\_\_\_\_  
 23 <sup>11</sup> See, e.g., *Betancourt*, No. 14 Civ. 1788, 2016 U.S. Dist. LEXIS 10361, at \*14 (N.D. Cal.  
 24 Jan 28, 2016) (granting final approval of settlement providing approximately 9.7% of total  
 25 maximum potential recovery if class members had prevailed on all claims); *Stovall-Gusman v.  
 26 W.W. Granger, Inc.*, No. 13 Civ. 2540, U.S. Dist. LEXIS 78671, at \*12 (N.D. Cal. June 17,  
 27 2015) (finding that a settlement constituting 7.3% of plaintiff's estimated trial award to be  
 “within the range of reasonableness”); *In re Heritage Bond Litig.*, No. 02 ML 1475, 2005 U.S.  
 Dist. LEXIS 13555, at \*62 (C.D. Cal. June 10, 2005) (calling a recovery of 36% of the total net  
 loss an “exceptional result”).

1       A settlement requires adequate discovery. The touchstone of the analysis is whether “the  
 2 parties have sufficient information to make an informed decision about settlement,” including  
 3 formal and informal discovery. *Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)*, 213 F.3d  
 4 454, 459 (9th Cir. 2000) (quoting *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1239 (9th  
 5 Cir. 1998)). Here, Plaintiffs have litigated these claims zealously for two years, conducting both  
 6 formal and informal discovery along the way. Specifically, SoFi produced relevant policies and  
 7 procedures, underwriting materials, application materials and applicant data, as well as records  
 8 from its customer service phone number dedicated to serving DACA recipients and other non-  
 9 citizens. Miazad Decl. ¶ 19. Plaintiffs produced their online application materials, screen shots  
 10 of online accounts, credit reports, emails with SoFi personnel, and evidence of phone calls with  
 11 SoFi’s customer service department. *Id.* ¶ 20. Thus, the settlement results from Class Counsel’s  
 12 informed judgment about the strengths and weaknesses of the claims.

13       **4.       Counsel’s Experience and Views Support Approval.**

14       “Great weight is accorded to the recommendation of counsel, who are most closely  
 15 acquainted with the facts of the underlying litigation.” *DIRECTV, Inc.*, 221 F.R.D. at 528  
 16 (quoting *In re Painewebber Ltd. P’ships Litig.*, 171 F.R.D. 104, 125 (S.D.N.Y. 1997)). “[P]arties  
 17 represented by competent counsel are better positioned than courts to produce a settlement that  
 18 fairly reflects each party’s expected outcome in litigation[.]” *Rodriguez*, 563 F.3d at 967.  
 19 Class Counsel are some of the most experienced class action litigators in the country.  
 20 Miazad Decl. ¶¶ 4-9; Hall Decl. ¶¶ 6-7. Class Counsel specialize in prosecuting complex  
 21 employment and civil rights class actions, and over many years have successfully—and  
 22 unsuccessfully—litigated many such cases, putting them in a strong position to weigh the  
 23 strengths and weaknesses of Plaintiffs’ claims and SoFi’s defenses. *Id.*; *see also* Miazad Decl.,  
 24 Ex. B (listing comparable past distributions). Based on their extensive experience, Class  
 25 Counsel believe that the settlement is fair, reasonable, and adequate.

26       **5.       The Parties Participated in Arms-Length Negotiations Before an  
 27                    Experienced Neutral Mediator.**

28       A settlement reached “in good faith after a well-informed arms-length negotiation” is

1 presumed to be fair. *Fernandez v. Victoria Secret Stores, LLC*, No. 06 Civ. 04149, 2008 U.S.  
 2 Dist. LEXIS 123546, at \*15 (C.D. Cal. July 21, 2008).<sup>12</sup> Here, the settlement easily meets the  
 3 rigorous scrutiny required in this District and by *Roes*, 1–2, for both substantive and procedural  
 4 reasons. First, the settlement is substantively strong, providing excellent monetary relief and  
 5 robust programmatic relief. Second, the settlement is procedurally sound, (a) having been  
 6 reached after extensive, hard-fought adversarial litigation, with extensive discovery and motion  
 7 practice, (b) with no parallel litigation that could give rise to reverse auction concerns, and (c)  
 8 after a full-day mediation session, overseen by a highly experienced mediator with particular  
 9 expertise in complex class actions, and followed by months of further negotiations between the  
 10 Parties. Miazad Decl. ¶¶ 13-28.

11       **C. The Proposed Notice Is Clear and Adequate.**

12       The proposed Notice is the “best notice that is practicable under the circumstances.” Fed.  
 13 R. Civ. P. 23(c)(2)(B), and is “reasonable,” Fed. R. Civ. P. 23(e)(1). The proposed Notice and  
 14 Claim Form are consistent with Northern District of California’s Procedural Guidance for Class  
 15 Action Settlements and modern best practices set forth by the Federal Judicial Center.<sup>13</sup> SA Ex. 1  
 16 (Notice), Ex. 2 (Claim Form). The Notice and Claim Form are easily understandable and  
 17 include: (1) contact information for Class Counsel to answer questions; (2) the address for a  
 18 website maintained by the Settlement Administrator that will link to important documents in the  
 19 case; and (3) instructions on how to access the case docket via PACER. *Id.* The Notice will  
 20 state the date of the fairness hearing for final approval, that the date may change without further  
 21 notice to the Class, and that Class Members should check the settlement website or the Court’s  
 22

23  
 24       <sup>12</sup> See also *Wren v. RGIS Inventory Specialists*, No. 06 Civ. 05778, 2011 U.S. Dist. LEXIS  
 25 38667, at \*79 (N.D. Cal. Apr. 1, 2011); *Tijero v. Aaron Bros., Inc.*, 301 F.R.D. 314, 325 (N.D.  
 26 Cal. 2013) (private mediation “support[s] the conclusion that the settlement process was not  
 27 collusive”).

28       <sup>13</sup> See *Illustrative Forms of Class Action Notices: Overview*, Fed. Judicial Ctr.,  
 29 <https://www.fjc.gov/content/301253/illustrative-forms-class-action-notices-introduction> (last  
 30 visited April 20, 2022).

1 PACER site to confirm that the date has not been changed. SA Ex. 1. The Notice explains the  
 2 deadlines for objecting, opting out, and submitting a Claim Form. *Id.*

3 The Claim Form is clear, user-friendly, and focused on the key information concerning  
 4 Class Members. SA Ex. 2. The Claim Form is helpfully pre-printed with a fillable and  
 5 returnable verification form and Form W-9 (with postage pre-paid) to ensure that claimants  
 6 receive optimal tax treatment for their class payments. *Id.* It will also be available online, and  
 7 transmitted via email, so that Class Members can submit Claim Forms via a secure online  
 8 submission form, or via email. *Id.*

9 **V. A FINAL APPROVAL HEARING SHOULD BE SCHEDULED.**

10 Pursuant to the deadlines set forth in Plaintiffs, in consultation with SoFi, propose the  
 11 following schedule for finalizing and implementing the settlement:

Event	Proposed Date
<b>Preliminary Approval Hearing</b>	June 2, 2022
Court enters Preliminary Approval Order*	July 8, 2022
SoFi provides class list data to Settlement Administrator	July 22
Settlement Administrator disseminates Notice	August 8
Settlement Administrator sends Reminder notices	September 7
Deadline for Class Members to file Claim Forms, opt out, and/or object	October 7
Deadline for Class Members to file Official Documentation, if requested	October 28
Plaintiffs file Fee and Incentive Award Motions	November 10
Plaintiffs file Final Approval motion	December 1
<b>Final Approval Hearing</b>	December 15
Final Approval Order*	February 1, 2023
Effective Date (assuming no appeals)*	March 8, 2023
SoFi funds Settlement	March 22, 2023
Settlement Administrator mails checks to Class	April 8, 2023

1 \* Assumed date for purposes of calculating subsequent dates.

2 **VI. CONCLUSION**

3 For the foregoing reasons, Plaintiffs respectfully request that the Court: (1) certify, for  
 4 settlement purposes only, settlement classes pursuant to Federal Rule 23(a) and 23(b)(3); (2)  
 5 grant preliminary approval of the Settlement; (3) appoint Plaintiffs Calin Constantin Segarceanu,  
 6 Emiliano Galicia and Josue Jimenez as Class Representatives, appoint Plaintiffs' counsel as  
 7 Class Counsel, and appoint Rust as Settlement Administrator; (4) approve mailing to the Class  
 8 Members the proposed Notice, and the establishment of a settlement website; and (5) schedule a  
 9 hearing for final approval of the Settlement at least one hundred forty (140) days after entry of  
 10 the Preliminary Approval Order.

11  
 12 Dated: April 20, 2022

Respectfully submitted,

13 /s/ Ossai Miazad  
 14 Ossai Miazad (admitted *pro hac vice*)  
**OUTTEN & GOLDEN LLP**  
 15 685 Third Avenue, 25th Floor  
 New York, NY 10017  
 16 Telephone: (212) 245-1000  
 Facsimile: (646) 509-2060  
 17 om@outtengolden.com

18 Moira Heiges-Goepfert (Cal. Bar No. 326861)  
**OUTTEN & GOLDEN LLP**  
 19 One California Street, 12th Floor  
 San Francisco, CA 94111  
 20 New York, NY 10017  
 Telephone: (212) 245-1000  
 21 Facsimile: (415) 638-8810  
 22 mhg@outtengolden.com

23 **LAWYERS FOR CIVIL RIGHTS**  
 24 Sophia L. Hall (*pro hac vice*)  
 61 Batterymarch Street, 5th Floor  
 25 Boston, MA 02110  
 Telephone: (617) 482-1145  
 26 Facsimile: (617) 482-4392  
 27 shall@lawyersforcivilrights.org